

REMARKS

Applicants respectfully take issue with two points raised in the Examiner's Answer.

Point 1. On page 2 of the Examiner's Answer, at paragraph (7) entitled "Grouping of Claims", the statement is made that:

The rejection of claims 11 to 20 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7)."

Applicants respectfully disagree with this conclusion. Applicants do agree that 37 CFR 1.192(c)(7) requires (1) a statement that the grouping of claims does not stand or fall together, and (2) reasons in support thereof. The Brief has in fact both of these elements.

As to the first required element, the Brief at page 10 states:

Grouping of Claims

***Under 37 CFR 1.192(c)(7), applicants state that the claims do not stand or fall together.*** For the purpose of this appeal, the claims are grouped as follows:

- Group 1: Claims 11 to 13, 16 to 18, and 20.
- Group 2: Claim 19.
- Group 3: Claims 14 and 15.

(emphasis added)

Thus, the Brief at page 10 clearly indicates that the claims do not stand or fall together.

As to the second required element, the Brief at page 11 through 13, and the first two lines of page 14, gives a discussion of the reasons for patentability of claims 11 through 20. This is in response to the final rejection of the claims of Group 1, claims 11 to 13, 16 to 18, and 20 under 35 U.S.C. §112, first paragraph.

Beginning on page 14, Group 2 (claim 19) is separately addressed. The Brief states that:

Applicants rely on the above comments with respect to Speer et al. ***Applicants also point out that the Final Office Action does not point to any teaching in Speer et al. directed to a multi-layer heat-shrinkable film of claim 11 in the form of a seamless tubing wherein the outer heat-sealing layer is the innermost layer of the tube.***

(emphasis added)

Thus, for Group 2 (claim 19) of page 10's grouping of claims, reliance is placed on the comments of pages 11 to 14, with respect to claims 1 to 20, *but the reader is additionally directed to the absence in Speer et al. of any teaching directed to a multi-layer heat-shrinkable film of claim 11 in the form of a seamless tubing wherein the outer heat-sealing layer is the innermost layer of the tube.* Applicants respectfully submit that a reason is thus given in support of the fact that the claims do not stand or fall together.

Beginning on page 15, Group 3 (claims 14 and 15) is separately addressed. The Brief states that:

Applicants rely on the above comments with respect to Speer et al. ***Also, Arita et al. is directed to heat-shrinkable structures obtained by laminating together oriented heat-shrinkable layers. In Example 2, one surface of a heat-shrinkable nylon 6 film (nylon 6 has a very high melting point, well above the 176°C limit) is coated with PVDC and then this film is laminated, via a layer of LDPE extrusion coated on the PVDC surface, to a heat-shrinkable, oriented, LLDPE film. The film structures described in the present application are different from those described in Arita. The applicants extrude PVDC instead of making a coating thereof, and obtain the films as cast tapes and then orient them. Thus, all the layers are oriented, while in Example 2 of Arita the extrusion coated LDPE used as an adhesive is not oriented.***

(emphasis added)

Thus, for Group 3 (claims 14 and 15) of page 10's grouping of claims, reliance is placed on the comments of pages 11 to 14, with respect to claims 1 to 20, *but the reader is additionally directed to the absence in Arita et al. of any teaching that all the layers are oriented.* Applicants respectfully submit that another reason is thus given in support of the fact that the claims do not stand or fall together.

The Board is respectfully requested to reconsider the patentability of the claims on the proper basis that the claims are not grouped together, as stated in the Brief and as discussed above.

Point 2. On page 5 of the Examiner's Answer, at paragraph (11) entitled "Response to Argument", the statement is made that:

The 35 U.S.C. 112, first paragraph rejection of Claims 11 to 20 is withdrawn, as Appellant's arguments regarding the rejection have been considered and have been found to be persuasive. *However, it is noted that all objects, including the layers disclosed by Speer et al and Arita et al, are oriented, because they have at least one surface that faces at least one definite direction.*  
(emphasis added)

A similar comment appear on page 7 of the Examiner's Answer:

Appellants also argue that all the layers of Arita et al are not oriented. *However, as state above, all objects, including the layers disclosed by Speer et al and Arita et al, are oriented, because they have at least one surface that faces at least one definite direction (column 7, lines 15-28).*  
(emphasis added)

Applicants respectfully disagree with the reasoning and conclusion on pages 5 and 7 of the Examiner's Answer, and submit that it reflects a misunderstanding of "oriented" as a term of art in the field of processing of thermoplastic packaging materials. The Board is referred to the specification page 13, line 20 through page 14, line 10. The text will not be repeated here, but the description refers to a trapped bubble technique for "orienting" film, i.e. creating an orientation of crystallites (referred to as "freezing the molecules of the film" in the first paragraph of page 14 of the specification) in the polymeric matrix of the film that provides an ability of the oriented film, when the oriented film is again exposed to a certain level of heating, e.g. in a shrink tunnel, to return to its original crystallite orientation. This expresses itself in shrinkage of the film: a shrinkage that is expected, and desirable, and that results in a tight package. The process is well known in the packaging art, is amply described in both the patent and technical literature, and has nothing to do with the universal fact that all objects face some direction.

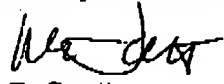
[As an additional matter, Applicants also note that they have not argued that "all the layers of Arita et al are not oriented". In the Brief, at page 15, applicants take the position that "[t]hus, all the layers [of the claimed film] are oriented, while in Example 2 of Arita the extrusion coated LDPE used as an adhesive is not oriented". The applicants therefore take the position that although some of the layers of Arita et al. may or may not be oriented, they are clearly not all oriented.]

The Board is respectfully asked to consider the two points discussed above in its review of the patentability of the claims under review, and to reverse the finding of the Examiner.

Cryovac, Inc.  
P.O. Box 464  
Duncan, S.C. 29334

(864) 433-2817

Respectfully submitted,

  
Mark B. Quatt  
Attorney for Applicants  
Registration No. 30,484

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Date